IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 14TH JUNE 2007 / 24TH JYAISHTA 1929

WP(C).No. 12418 of 2004(C)

PETITIONER:

THE MANAGER, LAHAI ESTATE, HARRISONS MALAYALAM LIMITED, RANNI, PERUNAD.P.O.

BY ADV.SRI.E.K.NANDAKUMAR,
SRI.A.K.JAYASANKAR NAMBIAR,
SMT.PRIYA MAHESH,
SMT.PRIYA MANJOORAN.

RESPONDENTS:
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1. **GENERAL SECRETARY, PATHANAMTHITT JILLA THOTTAM THOZHILALI UNION (HMS), RANNI, PERINAD, PATHANAMTHITTA.**

2. **INDUSTRIAL TRIBUNAL, KOLLAM.**

BY ADV. SRI.K.R.B.KAIMAL.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 14/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C). NO.12418/2004:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE CLAIM STATEMENT FILED BY THE R.1. DTD. 14/08/2001.

EXT.P.2: COPY OF THE WRITTEN STATEMEN FILED BY THE PETITIONER DTD. 18/10/2001.

EXT.P.3: COPY OF THE AWARD PASSED BY THE R.2. DTD. 01/01/2004.

//TRUE COPY//

prv.

KURIAN JOSEPH, J.

W.P(C)No. 12418 of 2004

Dated this the 14th day of June, 2007

JUDGMENT

The challenge is on Ext.P3 award in I.D.No.42/2000 on the file of the Industrial Tribunal, Kollam. The issue referred for adjudication is whether the dismissal of Sri.Somarajan, from the service of the petitioner is justified. Though the enquiry was upheld, the Tribunal exercised its powers under Section 11-A of the Industrial Disputes Act, 1947 and modified the punishment and passed an award directing the management to reinstate the worker in service with continuity of service and other benefits, but limiting the backwages to 25%. It is seen from the award itself that the termination is in 1989 and the dispute was raised only after ten years. In such circumstances going by the recent decision of the Supreme Court in U.P.S.R.T.C. Ltd. v. Sarada Prasad Misra, 2006 AIR SCW 3216, the worker is not entitled to have the benefit of continuity of service and backwages. It is seen that the worker has since been reinstated. Therefore, the award to the extent of the direction for backwages and continuity

of service is set aside. Since the award is admittedly pronounced in open court, it is made clear that the petitioner shall be entitled to backwages and continuity of service for the period after one month of the date of pronouncement of the award.

The writ petition is disposed of as above.

(KURIAN JOSEPH, JUDGE)

ahg.